

REMARKS

Claims 5, 7, 9-10, and 12-25 are pending in this application.

Applicant respectfully submits that the finality of the Office Action of January 10, 2007 was improper and should be withdrawn. In applicant's response filed on October 5, 2006 there were no claim amendments. Applicant argued the distinguishing features of the claims over the cited references.

As stated by the Examiner in the interview summary: "Examiner re-opened prosecution and further updated the search in light of the Applicant's remarks in the After-Final filed on 10/5/06." The claims are now rejected by two new references Anabuki and Nakano et al. listed in the Notice of References Cited accompanying the Office Action of January 10, 2007.

The MPEP 706.07 states: "Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement." The Examiner has cited new grounds for rejection which were not necessitated by either claim amendment or IDS.

Reconsideration and withdrawal of the finality of the Office Action of January 10, 2007 is respectfully requested.

Claim 5 has been amended herein to clarify the claimed subject matter. No new matter is entered.

The Office action rejects claims 5, 7, 9-10, 12, 14-21, and 24-25 under 35 U.S.C. 103(a) over Anabuki (US 6,091,518) and Nakano et al. (US 2002/0055847, hereinafter Nakano). The applicant respectfully traverses this rejection.

The MPEP 2142 requires:

"To establish a *prima facie* case of obviousness ... the prior art reference (or references when combined) **must teach or suggest all the claim limitations**... If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness."

Claim 14, upon which claims 15-17 depend, claims a method that includes receiving an address of a relay server from a remote device, transmitting a first request to the relay server, receiving an address of a profile server from the relay server, based on the first request, transmitting a second request to the profile server, receiving a profile from the profile server, based on the second request, and controlling the appliance in dependence upon the profile.

Both Anabuki and Nakano fail to teach receiving an address of a relay server from a remote device. (Emphasis added).

It is admitted in the Office Action, on page 3, that Anabuki fails to teach receiving an address of a relay server from a remote device. It is asserted in the Office Action that Nakano teaches receiving an address of a relay server from a remote device at pages 1 and 2, [0013] and page 3, [0032-0034]. The applicant respectfully disagrees with this assertion.

It is asserted in the Office Action that Nakano's smart card 32 is programmed with the address of a relay server; however, this is incorrect because at [0032], Nakano teaches that the smart card is programmed with the address of a target internet site, for example a vendor shopping site. There is no description in Nakano of the smart card being programmed with the address of a relay server only of a target internet site. Because there is no teaching of a relay server, and as specifically claimed in claim 14, receiving an address of a relay server from a remote device, the rejection should be withdrawn.

In addition, the smart card of Nakano is not a remote device. As Nakano teaches, the smart card must be inserted into the set top box. See first line of both [0030] and [0034]. Also page 4, [0039] provides "vendor-provided smart card 54 is inserted into the second smart card port 56, providing the vendor URL information." This in fact describes that the smart card has a target internet site URL and not a relay server and also that the smart card is not a remote device but must be inserted into the set-top box.

Because Nakano fails to teach receiving an address of a relay server from a remote device, as asserted in the Office Action, the applicant respectfully maintains

that the rejection of claims 14-17 under 35 U.S.C. 103(a) over Anabuki and Nakano is unfounded, per MPEP 2142.

In addition, the dependent claim 15 recites the remote device is a radio-frequency identification device. The Office Action again points to the smart card in Nakano, pages 1 and 2, [0013] and page 3, [0032-0034]. However, as pointed out above, the smart card is inserted into the set-top box and is not a remote device, and in addition, the smart card is not a radio-frequency identification device.

The dependent claims 10, 12, and 18 each include a similar feature of the remote device is a radio-frequency identification device. Nakano, being relied upon by the Office Action, fails to teach at least this feature.

The Office action notes that independent claims 5 and 9 "contain limitations that are substantially similar to claim 14 and are therefore rejected under the same basis". Thus, based on the remarks above regarding claim 14, the applicant respectfully maintains that the rejection of claims 5, 7, 9-10, 12-13, 18-22, and 24-25 under 35 U.S.C. 103(a) over Anabuki and Nakano are similarly unfounded, per MPEP 2142.

The Office action rejects claim 23 under 35 U.S.C. 103(a) over Anabuki and Nakano, and Hanko et al. (USP 6,912,578, hereinafter Hanko). The applicant respectfully traverses this rejection.

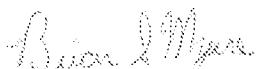
Claim 23 is dependent upon independent claim 9, and in this rejection, the Office action relies upon Anabuki and Nakano for teaching the elements of claim 9.

As noted above, Anabuki and Nakano fail to teach the elements of claim 9, and therefore the rejection of claim 23 under 35 U.S.C. 103(a) over Anabuki and Nakano, and Hanko is unfounded, per MPEP 2142.

CONCLUSION

In view of the foregoing, the applicant respectfully requests that the Examiner withdraw the finality of the previous Office Action, withdraw the rejections of record, allow all the pending claims, and find the present application to be in condition for allowance. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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